

(f) *Indebtedness*. “Indebtedness” within the context of this part refers to financial obligations to make payment(s) to the U.S. Government in accordance with contractual or other arrangements. Such obligations generally arise from

(1) The disbursements of cash to be repaid at a future time (with or without interest),

(2) The extension of credit (by formal agreement or an open book account) in connection with the sale of products, property, or services,

(3) The formal deferral of interest collection,

(4) The purchase or repurchase of obligations that have been insured or guaranteed by the U.S. Government, and

(5) Payments by the U.S. Government in cases of default on insured or guaranteed loans and other investments when the U.S. Government acquires a debt instrument from the insured.

(g) *Long-term loans and credits*. “Long-term loans and credits” include any indebtedness under which the original payment terms provided for payment within a period of time exceeding one year after delivery or performance.

(h) *Official obligor*. “Official obligors” are debtors or guarantors who are:

(1) Central governments or their departments (ministries) or components, whether administrative or commercial.

(2) Political subdivisions such as states, provinces, departments, and municipalities.

(3) Foreign central banks.

(4) Other institutions (such as corporations, development banks, railways, and utilities) when (i) the budget of the institution is subject to the approval of the government, or (ii) the government owns more than 50 percent of the voting stock or more than half of the members of the board of directors are government representatives, or (iii) in the case of default the government or central bank would become liable for the debt of the institution.

(5) Any official multinational organization.

(i) *Private obligor*. “Private obligors” are all debtors or guarantors who are not defined as “official obligors.”

(j) *Program*. “Program” is the law, international treaty, appropriation, or other authority under which the loans or credits are extended, or the accounts receivable arise. When a narrative program designation is required, commonly used terms should be used, e.g., Arms Export Control Act, Logistical Support, and Military Assistance Advisory Groups.

(k) *Short-term loans and credits*. “Short-term loans and credits” include any indebtedness under which the original payment terms provided for payment within a period from 90 days to and including one year after delivery or performance.

(1) *Time conventions*. The terms 30, 60 and 90 days should be interpreted to mean 1, 2, and 3 calendar months, respectively. That is, the period February 6 through May 5 would be considered to be 90 days. For example, in calculating amounts “due and unpaid” 90 days or more as of December 31 the amounts due before October 1 and remaining unpaid as of December 31 would be reportable. However, amounts due as of October 1 but remaining unpaid at December 31 would not be reportable.

## PART 269—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

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AUTHORITY: 28 U.S.C. 2461.

SOURCE: 61 FR 67945, Dec. 26, 1996, unless otherwise noted.

### § 269.1 Scope and purpose.

The purpose of this part is to establish a mechanism for the regular adjustment for inflation of civil monetary penalties and to adjust such penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 46 U.S.C. 2461, as amended by the Debt Collection Improvement Act of 1996, Public Law 104-134, April 26, 1996, in order to maintain the deterrent effect of civil monetary penalties

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and to promote compliance with the law.

### § 269.2 Definitions.

(a) *Department*. The Department of Defense.

(b) *Civil monetary penalty*. Any penalty, fine, or other sanction that:

(1)(i) Is for a specific monetary amount as provided by Federal law; or  
(ii) Has a maximum amount provided by Federal law;

(2) Is assessed or enforced by the Department pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal Courts.

(c) *Consumer Price Index*. The index for all urban consumers published by the Department of Labor.

### § 269.3 Civil monetary penalty inflation adjustment.

The Department shall, not later than 180 days after the enactment of the Debt Collection Improvement Act on April 23, 1996, and at least once every 4 years thereafter—

(a) By regulation adjustment each civil monetary penalty provided by law within the jurisdiction of the Department of Defense by the inflation adjustment described in § 269.4; and

(b) Publish each such update in the FEDERAL REGISTER.

### § 269.4 Cost of living adjustments of civil monetary penalties.

(a) The inflation adjustment under § 269.3 shall be determined by increasing the maximum civil monetary pen-

alty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this paragraph shall be rounded to the nearest:

(1) Multiple of \$10 in the case of penalties less than or equal to \$100;

(2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;

(3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;

(4) Multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;

(5) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and

(6) Multiple of \$25,000 in the case of penalties greater than \$200,000.

(b) For purposes of paragraph (a) of this section, the term “cost-of-living adjustment” means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

(c) *Limitation on initial adjustment*. The first adjustment of civil monetary penalty pursuant to § 269.3 may not exceed 10 percent of such penalty.

(d) *Inflation adjustment*. Maximum civil monetary penalties within the jurisdiction of the Department of Defense are adjusted for inflation as follows:

| United States Code citation   | Civil monetary penalty description                                    | Maximum penalty amount as of 10/23/96 | New adjusted maximum penalty amount |
|-------------------------------|---|---------------------------------------|-------------------------------------|
| 10 U.S.C. 1094(c)(1) .....    | Unlawful Provision of Health Care .....                               | \$5,000                               | \$5,500                             |
| 10 U.S.C. 1102(k) .....       | Wrongful Disclosure—Medical Records:                                  |                                       |                                     |
|                               | First Offense .....   | 3,000                                 | 3,300                               |
|                               | Subsequent Offense .....  | 20,000                                | 22,000                              |
| 31 U.S.C. 1352 .....          | Use of Appropriated Funds to Influence Contract:                      |                                       |                                     |
|                               | Minimum .....   | 10,000                                | 11,000                              |
|                               | Maximum .....   | 100,000                               | 110,000                             |
| 31 U.S.C. 3721(i) .....       | Personal Property Loss Claims from Government Personnel ....          | 1,000                                 | 1,100                               |
| 31 U.S.C. 3802(a)(1) .....    | Program Fraud Civil Remedies Act/Violation Involving False Claim.     | 5,000                                 | 5,500                               |
| 31 U.S.C. 3802(a)(2) .....    | Program Fraud Civil Remedies Act/Violation Involving False Statement. | 5,000                                 | 5,500                               |
| 33 U.S.C. 1319(g)(2)(A) ..... | § 404 Permit Condition Violation, Class I (per violation amount).     | 10,000                                | 11,000                              |
| 33 U.S.C. 1319(g)(2)(A) ..... | § 404 Permit Condition Violation, Class I (maximum amount) ..         | 25,000                                | 27,500                              |
| 33 U.S.C. 1319(g)(2)(B) ..... | § 404 Permit Condition Violation, Class II (per day amount) ....      | 10,000                                | 11,000                              |
| 33 U.S.C. 1319(g)(2)(B) ..... | § 404 Permit Condition Violation, Class II (maximum amount)           | 125,000                               | 137,500                             |